

REMARKS

Claims 81-94 have been rejected under 35 USC § 112; claims 81, 83, 84, 86-88, 90-92 and 94 have been rejected under 35 USC § 102 over Australian patent 237071 to Murtaugh (Murtaugh); and claims 85, 89 and 93 have been rejected under 35 USC § 103 in view of Murtaugh and U.S. Patent No. 3,222,181 (Hoelle).

35 USC § 112

In order to overcome the § 112 rejections: (1) the term "lower" has been removed from in front of "alcohol" in claims 84 and 88, (2) the reference to claim 29 has been removed in claim 81, and (3) the term "at least partially" has been removed from in front of "converted" in claims 81 and 92.

35 USC §§ 102 & 103

Looking first at amended independent claims 81, 84, 88 and 92, it can be seen that these claims are now limited to using a kettle hop essence and flavorant comprising a purified and converted aqueous alcohol extract of hop solids. This amendment has a basis in cancelled claims 82, 85, 89 and 93 respectively. Amended independent claims 81, 84, 88 and 92 also now state that the claimed methods produce a light stable beverage. This amendment has a basis at page 28, lines 14-17 and other locations within the specification. The use of an aqueous alcohol extract of hop solids allows the claimed method to produce a light stable beverage.

Turning now to Murtaugh, it is apparent that the extracts of Murtaugh are prepared using polar solvents, that is, methanol and water. As a result, the extracts of Murtaugh include high levels of alpha-acids and beta-acids as shown in Table Nos. 5 & 6 and in fact, Murtaugh teaches that high levels of alpha-acids and beta-acids are

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desirable (see page 4, last paragraph of Murtaugh). It is well known that alpha acids (humulones) in beer can contribute to light instability. Thus, if the extracts of Murtaugh were used in a method such as that recited in the pending method claims, a light stable beverage would not result as recited in amended independent claims 81, 84, 88 and 92. Therefore, it is respectfully submitted that amended independent claims 81, 84, 88 and 92 (and the claims that depend thereon) are patentable over Murtaugh.

Referring now to U.S. Patent No. 3,222,161 to Hoelle, the extract produced in Hoelle also contains humulones (see column 6, lines 1-15.). Thus, if the extracts of Hoelle were used in a method such as that recited in the pending method claims, a light stable beverage would not result as recited in amended independent claims 81, 84, 88 and 92. Therefore, Hoelle does not make up for the deficiencies in Murtaugh. Accordingly, it is respectfully submitted that all of the limitations of the pending claims are not taught or suggested in Murtaugh and Hoelle.

Conclusion

Therefore, it is submitted that the application has been placed in condition for allowance. Favorable reconsideration is respectfully requested. No additional fees are believed to be needed for this amendment. However, if additional fees are needed, please charge them to Deposit Account No. 17-0055.

Respectfully submitted,

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By: Richard T. Roche

Richard T. Roche
Reg. No.: 38,599
QUARLES & BRADY LLP
411 East Wisconsin Avenue
Milwaukee, WI 53202
(414) 277-5805